
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:14-CV-00954

STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH
CAROLINA, et al.,

Defendants.

DEPOSITION
OF
PETER ARCIDIACONO

THIS DEPOSITION CONTAINS HIGHLY CONFIDENTIAL AND
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ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

TAKEN AT THE OFFICES OF:
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
222 East Cameron Avenue
110 Bynum Hall
Chapel Hill, NC 27514

06-29-18
9:28 A.M.

P. Jordan Powers
Court Reporter

Civil Court Reporting, LLC
P.O. Box 1146
Clemmons, NC 27012
(336) 406-7684

1 A. When we ---

2 Q. --- to perform it on a different data
3 set?

4 A. Well, we had always intended to be doing
5 it the -- the same way, and it was through
6 producing the code for the rebuttal -- the code
7 for reproduction that we realized that we had the
8 wrong sample there.

9 Q. Aside from -- from that error, did you
10 make any other changes to your report?

11 A. No.

12 Q. And have you discovered any other errors
13 in your January report at any time since?

14 A. Not that I recall.

15 Q. Okay. And any errors that you've seen
16 since that time in either your April or the recent
17 June report?

18 A. Not that I -- not that I recall.

19 Q. And over the course of your retention
20 were you asked to provide an opinion on any matter
21 that is not reflected in your report?

22 A. No.

23 Q. And were you asked to perform any
24 assignments, other than those that you summarized
25 in paragraph one of your January report?

A. Well ---

MR. STRAWBRIDGE: Object to the form of the question.

A. Was I asked to perform any assignments?

Q. (Mr. Fitzgerald) Yes.

A. Well, yes, in that I was -- had to include Rick Kahlenburg's race-neutral simulations.

Q. Okay. And we'll come back to that in a moment. But aside from that, any other assignments not reflected in your reports?

A. Not that I recall.

Q. And were you asked to perform any work as part of your engagement that you declined to perform?

A No

Q. And did you perform work to support or test opinions that ultimately did not make it into your report?

A Not that I recall

Q. And I take it you're not planning to offer any opinion about whether race conscious admissions policies at Carolina results in what is known as mismatch?

A. Well, that's not part of this report.

1 Q. Okay. And you're not planning to offer
2 an opinion at -- on that topic at trial?

3 MR. STRAWBRIDGE: Object to the
4 form of the question.

5 A. Only if you ask me about it.

6 Q. (Mr. Fitzgerald) And assuming all my
7 questions will be predicated on my not asking you,
8 with that standing assumption which is safe,
9 you're not planning to offer an opinion that
10 Carolina engaged in so called racial balancing as
11 part of the admissions process ---

12 A. That's correct.

13 Q. --- correct? And you're not planning to
14 offer an opinion or any statistical evidence as to
15 whether or not Carolina has a floor for admissions
16 for African Americans or other URMs. Is that
17 correct?

18 A. That's correct.

19 MR. STRAWBRIDGE: Object to the
20 form of the question.

21 Q. (Mr. Fitzgerald) And you're not
22 planning to offer any opinion that Carolina uses
23 quotas or URM targets concerning the race it
24 admits?

25 MR. STRAWBRIDGE: Object to the

1 form of the question.

2 A. That's correct.

3 Q. (Mr. Fitzgerald) And you're not
4 planning to offer an opinion as to whether
5 Carolina engages in intentional discrimination
6 against Asian Americans, correct?

7 A. That's correct.

8 Q. And in your January report you discussed
9 the school group review process. You are not
10 planning to offer any opinions about school group
11 review, correct?

12 A. That's correct.

13 Q. And you're not offering any opinion or
14 planning to offer any opinion that Carolina uses
15 its wait list to effect a racial composition of
16 admits, correct?

17 MR. STRAWBRIDGE: Object to the
18 form of the question.

19 A. That's correct.

20 Q. (Mr. Fitzgerald) And you would agree
21 that Carolina allows applicants to apply via early
22 action, correct?

23 A. Correct.

24 Q. And early action is a program at
25 Carolina that allows the applicant to apply early

1 but does not bind the applicant to matriculate at
2 Carolina if offered admission, correct?

3 A. Correct.

4 Q. And you're not offering any -- you're
5 not planning to offer any opinion that Carolina
6 considers applications it receives through early
7 action differently than those it receives through
8 regular decision, correct?

9 A. No. So ---

10 Q. No?

11 A. --- early action is one of the variables
12 that we control for in our model and there is
13 evidence that there's a preference for people who
14 apply early.

15 Q. Okay. Do you -- is it your
16 understanding that the process that they file,
17 when reviewing applications, early action is
18 different than the process by which applications
19 under regular decision are reviewed?

20 A. It's different in the -- potentially in
21 the sense that the bar may be different at --
22 that's -- can be reflected in the estimation of my
23 models, but that would be the -- but the
24 evaluation of the applicants themselves is similar
25 -- scored on the same ratings and so on.

1 Q. And are you going -- planning to offer
2 any opinion that to the extent there's a
3 difference in how early action applicants are
4 considered versus regular decision, that that is
5 motivated by race in any way?

6 MR. STRAWBRIDGE: Object to the
7 form of the question.

8 A. Sorry. Can you repeat the question?

9 Q. (Mr. Fitzgerald) To the extent that you
10 see a difference in the admission rates for early
11 action applicants versus regular decision
12 applicants, are you offering any opinion that that
13 difference is motivated by race in any way?

14 A. No.

15 Q. And do you understand that Caroline
16 Hoxby appears to address a different question in
17 her reports than you do?

18 MR. STRAWBRIDGE: Object to the
19 form of the question.

20 A. That's correct.

21 Q. (Mr. Fitzgerald) Okay. What question
22 do you understand her to be addressing?

23 A. Well, she has a number of questions.
24 Some that are directly related to these questions
25 about, you know, the role of race in the

1 admissions process. She also discusses how
2 formulaic the admissions process is and then race
3 control analysis, and the race control analysis
4 was not something that was part of my purview.

5 Q. Okay. And you understand Professor
6 Hoxby to be looking at the question of the impact
7 of race upon admissions decisions across the
8 entire applicant group, whether it involves URMs
9 or non-URMs and whether or not it involves
10 applicants that you viewed as nearly certain to be
11 admit -- admitted or nearly certain to be
12 rejected?

13 MR. STRAWBRIDGE: Object to the
14 form of the question.

15 A. So, I'm sorry. I kind of need you to
16 state it one more time.

17 Q. (Mr. Fitzgerald) Okay. Do you
18 understand that Professor Hoxby was looking at the
19 question of the impact of race upon admissions
20 decisions across the entire applicant group, which
21 includes both URMs and non-URMs as well as folks
22 that you viewed as being either certain -- nearly
23 certain to be admitted or rejected?

24 MR. STRAWBRIDGE: Same objection.

25 A. Yes, but I would say that my analysis

1 does the same thing.

2 Q. (Mr. Fitzgerald) Doesn't your analysis
3 leave out -- all your models leave out applicants
4 that you view as being nearly certain to be
5 admitted or rejected?

6 A. The role that race can play for those
7 applicants, my admission rates are over 97
8 percent, is by definition minimal. So -- and --
9 and also I do look at it in -- in my reply report.

10 Q. And did you run any models across the
11 entire admissions process that included the
12 students that you thought were nearly certain
13 admits or certain rejects?

14 A. Yes.

15 Q. Which -- which test did you run across
16 the entire applicant core?

17 MR. STRAWBRIDGE: Object to the
18 form of the question.

19 A. So in my final report I respond to her
20 criticism of not including them and show how that
21 if you include them and control for the fact
22 they're in one of these special recruiting
23 categories, but it doesn't affect my conclusions.
24 It doesn't affect the fit of the model.

25 Q. (Mr. Fitzgerald) You mentioned

1 Mr. Kahlenburg and you did some work with
2 Mr. Kahlenburg in this case, correct?

3 A. I did some work for him, yes.

4 Q. Okay. Had you worked with him before
5 this case?

6 A. No.

7 Q. Okay. Are you working with
8 Mr. Kahlenburg as well on the Harvard matter?

9 A. Yes, sorry. Should have clarified that,
10 yes.

11 Q. But putting those two matters ---

12 A. Yeah.

13 Q. --- aside, have you done any work with
14 Mr. Kahlenburg on any other matter?

15 A. No. I mean, we've been at a -- at a
16 conference together.

17 Q. Okay.

18 A. But that -- that's the extent.

19 Q. Is he involved in the Sanders versus
20 State Bar of California matter?

21 A. No.

22 Q. Okay. And tell us what you did you for
23 Mr. Kahlenburg.

24 A. So, Mr. Kahlenburg is interested in
25 race-neutral policies, so he would propose

1 particular race-neutral policies, and I would be
2 in charge of showing how those policies -- what
3 effects those policies have.

4 Q. Okay. And who constructed the models to
5 test those race-neutral policies that he would
6 propose?

7 A. Who constructed the models?

8 Q. Yeah.

9 A. Well, so he -- from when he was doing
10 race-neutral analysis based on solely applicants
11 to UNC, then he was using my models adjusted to
12 particular -- particular ways.

13 But there were also cases where he was
14 responding to some of the work that Hoxby did and
15 so taking some of Hoxby's models and then
16 expanding what was happening there.

17 Q. Okay. And so starting with the first
18 category, your models that were adjusted for his
19 work, who made the adjustments to those models?

20 A. Well, my team did.

21 Q. Okay. But who directed -- who directed
22 what adjustments should be made? Did that come
23 from Mr. Kahlenburg or come from you?

24 A. So Mr. Kahlenburg would say, "I -- I
25 want to give, you know, a SCS bump of this amount.

1 Tell me what happens in that case." And so we put
2 that in the model and show what would happen.

3 Q. Okay. So just -- so I can understand it
4 more simply myself, did the model change or was he
5 just saying put this different data input into the
6 model?

7 A. So the way these models work is that
8 there are -- we have them -- estimated the
9 probability of being admitted.

10 Q. Okay.

11 A. And there are coefficients associated
12 with different variables there. And those
13 different variables have different effects on the
14 probability of admission.

15 So when we talk about what's going to
16 happen here is that we -- instead of -- for
17 example, there's a coefficient on first generation
18 college. First generation college feeds into your
19 probability of being admitted and if we raise that
20 coefficient, that's going to change your
21 probability of being admitted.

22 So that's the extent of what's going on.
23 We're talking about raising particular
24 coefficients or identifying particular
25 combinations of characteristics and saying okay,

1 we're going to give everybody a bump of a
2 particular size.

3 Q. And who decided which coefficients to
4 raise?

5 A. Mr. Kahlenburg.

6 Q. Okay. And did you perform these --
7 these simulations yourself or people on your team?

8 A. Our team.

9 Q. Okay. Who was your team?

10 A. So ---

11 MR. STRAWBRIDGE: I just caution
12 the witness in answering this question. I don't
13 think the question calls for this. Do not -- do
14 not disclose the identity of any consulting
15 witness whose work you have not relied upon in
16 this case. And I just -- can we go off the record
17 for a second? I just have a ---

18 MR. FITZGERALD: Sure.

19 MR. STRAWBRIDGE: --- a question
20 because it's going to come up in the other
21 depositions.

22 (Off-record: 9:58 a.m. to 9:59 a.m.)

23 Q. (Mr. Fitzgerald) In terms of -- let me
24 talk to you about your work and also what it is
25 you expect to testify about at trial. Did you

1 come up with the types of race-neutral
2 alternatives to propose in this matter?

3 A. No.

4 Q. And did you determine the parameters of
5 each particular race-neutral alternative?

6 A. No.

7 Q. And I take it you're not planning to
8 opine as to whether the Univer -- simulations that
9 Mr. Kahlenburg had you -- had you and your team
10 perform are the right ones, correct?

11 A. Correct.

12 Q. And I take it that you're not opining as
13 to the results of these simulations, correct?

14 A. Correct.

15 Q. And I take it that you're not opining as
16 -- as to how the difference in diversity should be
17 evaluated, correct?

18 A. Correct.

19 Q. And I take it that you're not opining as
20 to whether a particular race-neutral alternative
21 is workable, correct?

22 A. Correct.

23 Q. And I take it you're not opining with
24 respect to how academic preparedness should be
25 measured, correct?